

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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ABIMAELO RODRIGUEZ,

Case No. 3:24-cv-00498-MMD-CSD

Petitioner,

ORDER

v.

WARDEN LOVELOCK CORRECTIONAL  
CENTER, *et al.*,

Respondents.

Following the Notice of Appearance (ECF Nos. 21, 22) by the Federal Public Defender on behalf of Petitioner Abimael Rodriguez, it is therefore ordered that the Federal Public Defender, through Ashlyn Saenz-Ochoa and Jonathan M. Kirshbaum, is appointed as counsel for Petitioner under 18 U.S.C. § 3006A(a)(2)(B). Counsel will represent Petitioner in all federal proceedings related to this matter, including any appeals or certiorari proceedings, unless allowed to withdraw.

It is further ordered that Petitioner will have until August 5, 2025, to file an amended petition and/or seek other appropriate relief. This deadline and any extension thereof may not be construed as implied findings regarding the federal limitation period or a basis for tolling. Petitioner at all times remains responsible for calculating the running of the federal limitation period and timely asserting claims, without regard to any court-ordered deadlines or extensions. Thus, a petition or amended petition filed within a court-ordered deadline may still be dismissed as untimely if it violates the statute of limitations. See *Sossa v. Diaz*, 729 F.3d 1225, 1235 (9th Cir. 2013).

It is further ordered that Respondents must file a response to the amended petition, including potentially by motion to dismiss, within 60 days of service of an amended petition. Petitioner may file a reply within 30 days of service of the answer. However,

1 Local Rule LR 7-2(b) governs the response and reply time to any motion filed by either  
2 party, including motions filed in lieu of a pleading.

3 It is further ordered that any procedural defenses Respondents raise to the  
4 counseled amended petition must be raised together in a single, consolidated motion to  
5 dismiss. Successive motions to dismiss will not be entertained, and any procedural  
6 defenses omitted from the consolidated motion to dismiss will be waived. Respondents  
7 may not file a response that consolidates their procedural defenses, if any, with their  
8 response on the merits. But arguments that an unexhausted claim clearly lacks merit may  
9 be included a procedural-defense response. If Respondents seek dismissal of  
10 unexhausted claims under 28 U.S.C. § 2254(b)(2) they must: (1) do so in a single motion  
11 to dismiss, not in the answer; and (2) specifically direct their argument to the standard for  
12 dismissal under § 2254(b)(2) as set forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th  
13 Cir. 2005). In short, no procedural defenses, including exhaustion, may be included with  
14 the merits in an answer. All procedural defenses, including exhaustion, must be raised in  
15 a single motion to dismiss.

16 It is further ordered that, in any answer filed on the merits, Respondents must  
17 specifically cite to and address the applicable state court written decision and state court  
18 record materials, if any, regarding each claim within the response as to that claim.

19 It is further ordered that Respondents must file the state court exhibits relevant to  
20 their response in chronological order.

21 It is further ordered that all state court records and related exhibits must be filed in  
22 accordance with LR IA 10-3 and LR IC 2-2 and include a separate index identifying each  
23 exhibit by number or letter. The index must be filed in CM/ECF's document upload screen  
24 as the base document to receive the base docket number (e.g., ECF No. 10). Each  
25 exhibit must then be filed as "attachments" to the base document to receive a sequenced  
26 sub-docket number (e.g., Exhibit A (ECF No. 10-1), Exhibit B (ECF No. 10-2), Exhibit C  
27 (ECF No. 10-3), and so forth). If the exhibits will span more than one filing, the base  
28 document in each successive filing must be either a copy of the index or volume cover

1 page. See LR IC 2-2(a)(3)(A).

2 It is further ordered that, notwithstanding LR IC 2-2(g), paper copies of any  
3 electronically filed exhibits need not be provided to chambers or to the staff attorney,  
4 unless later directed by the court.

5 DATED THIS 8<sup>th</sup> Day of May 2025.

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MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE